S.B. CIVIL MISC. APPEAL NO.1406/2006
(Vinod Kumar & Anr. Vs. Resham Singh & Anr.)

DATED : 03.10.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Shambhoo Singh for the appellants.

By way of this appeal against the common award dated 16.08.2003 insofar it relates to Claim Case No.111/2001, the claimants seek enhancement over the compensation awarded by the Motor Accidents Claims Tribunal, Sirohi in the sum of Rs.3,95,000/- with interest at the rate of 9% per annum for one year of pendency of the claim application on account of accidental death of Smt.Jyoti (26 years), wife of appellant No.1 and mother of appellant No.2.

For quantification of compensation, the Tribunal has accepted the case of the claimants that the deceased was engaged in knitting job earning Rs.3,000/- per month and has taken contribution from her at Rs.24,000/- per annum and has assessed pecuniary loss at Rs.3,60,000/- by application of multiplier of 15. The Tribunal has further allowed Rs.10,000/- for deceased being pregnant carrying a male fetus, Rs.10,000/- towards loss of consortium to the husband and Rs.8,000/- to the son of the deceased for loosing his mother in the infancy of two years. Yet further, the Tribunal has

allowed Rs.5,000/- towards transportation of the dead body and Rs.2,000/- towards funeral expenses. So far interest is concerned, though the claim application was filed on 12.08.1996 in relation to the accident that occurred on 21.06.1995, the Tribunal has noticed that in the present case, the non-applicant No.1 was got served only on 12.03.2003 and has, therefore, allowed pendente lite interest at the rate of 9% only for one year and has further allowed interest at the rate of 6% per annum from the date of award.

Having heard learned counsel for the appellants and having examined the considerations adopted by the Tribunal, this Court is of the view that though the Tribunal has denied interest for a longer period; and out of about seven years of pendency of claim application interest has only been allowed for one year that seems too restrictive but the Tribunal has otherwise made a liberal award in favour of the claimants allowing compensation rather on the higher side and, therefore, in ultimate analysis the award calls for no upward revision.

Though no proper proof of income of the deceased from knitting classes had been adduced and in fact no such assertion has been made in the claim application as noticed by the Tribunal; yet the Tribunal has proceeded on the consideration that the deceased was belonging to Punjab

area and such area being colder in climate, it could be accepted that the deceased was working in knitting; and has taken her income at Rs.3,000/- per month; and then, has taken her contribution at Rs.2,000/- per month. The considerations so adopted by the Tribunal sound rather far stretched and loss of dependency at Rs.24,000/- per annum seems to be much in excess of a reasonable amount available in this case. The Tribunal has further allowed compensation towards loss of child in womb, towards loss of consortium and loss of love and affection for the claimants and so also towards transportation and funeral expenses. The amount awarded towards pecuniary loss though has been arrived at by application of multiplier of 15 yet it stands on much higher side and is approximately double the reasonable amount of loss available in this case.

In the aforesaid view of the matter, even though the claimants have been denied interest for six years, this Court is of opinion that the ultimate award nevertheless stands on higher side ruling out any scope for enhancement.

The present appeal for enhancement remains bereft of substance and is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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